

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

CHRISTOPHER LEMA,

Plaintiff,

v.

THE PEOPLE,

Defendant.

Case No. 20-cv-00631-RMI

**ORDER FOR RESPONDENT TO  
SHOW CAUSE**

Petitioner, a California prisoner, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner was convicted in Santa Clara County, so venue is proper here. *See* 28 U.S.C. § 2241(d). Petitioner has paid the filing fee and consented to the jurisdiction of a Magistrate Judge. (Dkts. 1, 3).

**BACKGROUND**

Petitioner was convicted of second-degree murder. *People v. Lema*, No. H044128, 2019 WL 1970325, at \*1 (Cal. Ct. App. May. 3, 2019). Petitioner was sentenced to 16 years to life in state prison. *Id.* The California Court of Appeal affirmed the judgment. *Id.* The California Supreme Court denied review. *See* Pet. at 3.

**DISCUSSION**

**Standard of Review**

This court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading

requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ of habeas corpus filed by a prisoner who is in state custody pursuant to a judgment of a state court must “specify all the grounds for relief available to the petitioner . . . [and] state the facts supporting each ground.” Rule 2(c) of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254. “[N]otice’ pleading is not sufficient, for the petition is expected to state facts that point to a ‘real possibility of constitutional error.’” Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d 688, 689 (1st Cir. 1970)).

### **Legal Claims**

Petitioner’s sole ground for federal habeas relief asserts that his due process rights and right to a fair trial were denied by the trial court’s response to a jury request for further explanation of the differences between first-degree murder, second-degree murder and voluntary manslaughter. Liberally construed, this claim is sufficient to require a response.

### **CONCLUSION**

For the foregoing reasons, Respondent shall file with the court, and serve on Petitioner, within fifty-six (56) days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer, and serve on Petitioner, a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the court and serving it on respondent within twenty-eight (28) days of his receipt of the answer.

Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, it is due fifty-six (56) days from the date this order is entered. If a motion is filed, Petitioner shall file with the court and serve on Respondent an opposition or statement of non-opposition within twenty-eight (28) days of receipt of the motion, and Respondent shall file with the court and serve on Petitioner a reply within fourteen (14) days of receipt of any opposition.

The clerk shall serve by regular mail a copy of this order, the petition and all attachments thereto and a Magistrate Judge Jurisdiction consent form on Respondent and Respondent's attorney, the Attorney General of the State of California. The clerk also shall serve a copy of this order on Petitioner.

Dated:

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